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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

BENIGNO PICASSO,

Defendant and Appellant.

F045374

(Super. Ct. No. 03-114173)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Lloyd Hicks, Judge.

William Davies, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Mary Jo Graves, Assistant Attorney General, and Charles A. French, Deputy Attorney General, for Plaintiff and Respondent.

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* Before Wiseman, Acting P.J., Cornell, J., and Gomes, J.

Appellant Benigno Picasso pled no contest to assault with a deadly weapon and by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(1)), and admitted allegations that in committing that offense he inflicted great bodily injury (Pen. Code, § 12022.7, subd. (a)) and acted for the benefit of, and at the direction of, a criminal street gang (Pen. Code, § 186.22, subd. (b)(1)). The court imposed a sentence of 16 years, consisting of the 3-year midterm on the substantive offense, 10 years on the gang enhancement and 3 years for the great bodily injury enhancement.

Appellant did not seek, and the court did not issue, a certificate of probable cause (Pen. Code, § 1237.5).

Appellant's appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, with citations to the record, raises no issues, and asks that this court independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.)

Appellant has filed a letter brief in which he argues, as best we can determine, as follows: (1) he did not enter his plea knowingly, voluntarily and intelligently; (2) his trial counsel did not advise him properly regarding his plea, thereby depriving appellant of his constitutional right to effective assistance of counsel; and (3) the court erred in imposing a sentence in excess of the 11-year term recommended by the probation officer.

The first and second of these claims are foreclosed because the court did not issue a certificate of probable cause. (*People v. Mendez* (1999) 19 Cal.4th 1084, 1095 [challenge to validity of plea not cognizable on appeal in absence of compliance with certificate of probable cause requirements]; *People v. Stubbs* (1998) 61 Cal.App.4th 243 [claim ineffective assistance of counsel occurring prior to plea went to validity of plea and therefore not cognizable on appeal in absence of compliance with certificate of probable cause requirements].)

With respect to appellant's third contention, we have concluded, following independent review of the record, that the court did not commit sentencing error. We

have also concluded based on our independent review of the record that no reasonably arguable legal or factual issues exist.

The judgment is affirmed.